



U.S. Department of Justice

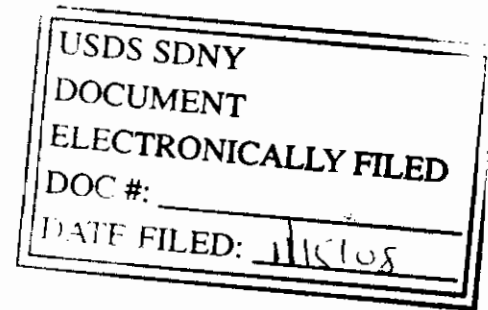
United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

January 15, 2008

BY FAX

The Honorable Richard J. Sullivan
United States District Judge
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 615
New York, New York 10007



Re: United States v. Alberto William Vilar and Gary Alan Tanaka,
S3 05 Cr. 621 (RJS)

Dear Judge Sullivan:

The Government respectfully submits this letter motion seeking an exclusion of time, pursuant to the Speedy Trial Act, 18 U.S.C. § 3161, *et seq.*, having received permission from Adam of Your Honor's chambers, to transmit this letter by fax.

As discussed at the December 17, 2007 conference, and as reflected in the December 26, 2007 letter of Jessica L. Margolis, Esq., counsel for defendant Gary Tanaka, the earliest that all counsel will be available to try this case is either June 16, 2008 or July 14, 2008.¹ Moreover, the Court's January 14, 2008 memorandum and order provides that the Government must make certain disclosures to defendants at least 60 days prior to trial. Based on the need for continuity of counsel, the complex nature of the issues raised in this case, and the defendants' motion for a taint hearing and early disclosure of the Government's witness list, exhibit list and Rule 404(b) evidence at least 60 days prior to trial, the Government respectfully submits that the ends of justice served by the granting of such an exclusion of time outweigh the best interests of the public and the defendant in a speedy trial. *See* 18 U.S.C. §§ 3161(h)(8)(A), (B)(ii), and (B)(iv). Accordingly, the Government proposes that the Court exclude time under the Speedy Trial Act through July 14, 2008. Mr. Fisher informed the Government that he has no opposition to the

¹ The Government notes that, although Ivan Fisher, Esq., counsel for defendant Alberto Vilar, had previously thought that a conference to be held before The Honorable Laura Taylor Swain on January 18, 2008 would clarify his schedule, Mr. Fisher informed the undersigned yesterday that the conference in that matter had been adjourned to January 24.

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Government's motion. Ms. Margolis informed the Government that Mr. Tanaka objects to the Government's motion, and "expressly reserves all previously stated objections."

Respectfully submitted,

MICHAEL J. GARCIA
UNITED STATES ATTORNEY

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Marc Litt
Deirdre A. McEvoy
Benjamin Naftalis
Assistant United States Attorneys
(212) 637-2295 / -2309 / -2456

cc: Glenn C. Colton, Esq. (by facsimile)
Ivan S. Fisher, Esq. (by facsimile)

The time between January 15, 2008 and July 14, 2008 is excluded pursuant to Title 18, United States Code, Sections 3161(h)(8)(A), (B)(ii) and (B)(iv). Furthermore, while Mr. Tanaka's "objection" is noted, the Court must point out that Tanaka's counsel expressly "request[ed]" that the Court order the trial to begin on July 14, 2008. See December 26, 2007 letter of Jessica Margolis (attached). Since July 14, 2008 is "the first date where all parties are available" (i.d.), and since Mr. Vilas through his counsel has consented to the Government's request for an exclusion of time,

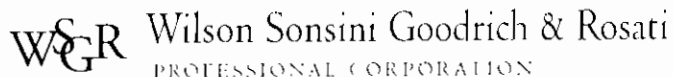
the Court finds that the ends of justice served by the granting of the requested continuance outweigh the best interests of the public and the defendant in a speedy trial. 18 U.S.C. § 3161(h)(8)(A). See also 18 U.S.C. § 3161(h)(7) (providing for exclusion of time attributable to a "reasonable period of delay when the defendant is joined for trial with a codefendant as to whom the time for trial has not run and no motion for severance has been granted").

SO ORDERED

Date:

1/15/08

RICHARD J. SULLIVAN
U.S.D.J.



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December 26, 2007

By Federal Express

The Honorable Richard J. Sullivan
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St., Room 615
New York, NY 10007

Re: *United States v. Alberto Vilar and Gary Tanaka*, 05 Cr. 621 (RJS)

Dear Judge Sullivan:

We represent defendant Gary Tanaka in connection with the above-referenced action.

As requested by the Court, the parties have conferred regarding a trial schedule. Although Mr. Tanaka and his counsel remain available for trial at the Court's earliest convenience, due to the trial schedules of both Ivan Fisher (counsel for defendant Alberto Vilar) and the Government, the first date where all parties are available appears to be July 14, 2008. Accordingly, we respectfully request that the Court order the trial to begin on that date.

Although Mr. Fisher's current schedule, which requires him to reserve May 19, 2008 for an estimated six week trial, presently precludes this trial from beginning prior to July 14, 2008, Mr. Fisher has advised that his schedule may change depending on the outcome of a conference to be held before Judge Swain on January 18, 2008. Accordingly, the parties have agreed to hold June 16, 2008 as a "back-up" trial date, and respectfully request that the Court do the same to the extent its schedule permits. The parties will advise the Court as soon as practicable after Mr. Fisher's January 18 conference as to whether the earlier trial date is possible. In addition, the parties will also advise the Court as to whether they have been able to reach any agreements concerning deadlines for pre-trial submissions.

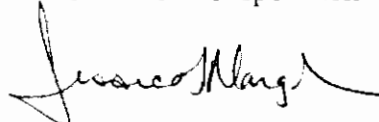
Wilson Sonsini Goodrich & Rosati
PROFESSIONAL CORPORATION

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The parties remain available to confer with the Court on these matters should Your Honor deem it necessary or appropriate.

Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

A handwritten signature in black ink, appearing to read "Jessica Margolis", with a stylized flourish at the end.

Jessica L. Margolis

cc: Marc Litt (by email)
Ivan Fisher (by email)